

REMARKS:

Claims 1-44 are pending in the application. All claims are amended to eliminate extra, bracketed recitation of the claim numbers (“[Claim X]”). Claims 1, 20, and 26 (all three pending independent claims) are amended for clarification. Applicants request reconsideration and allowance in view of the following remarks.

Rejection Under 35 U.S.C. § 102

Claims 1-4 and 26-29 are rejected under 35 U.S.C. § 102(b) as anticipated by Brown, U.S. 4,015,598. Applicants traverse the rejection. Interpreting the exhaust valve at the top of the mask, *per se*, in Brown as a suction arrangement “suspendable from” the mask, the Examiner has force-fit the words of the claims onto the device shown in Brown. Applicants submit that the Examiner has construed the claims beyond the realm of how one having skill in the art reasonably would have interpreted the claims in light of the specification.

Nevertheless, Applicants have amended each of the independent claims to put a sharper point on the claimed invention. In particular, although the invention is not limited to use in dental procedures, escaped anesthetic or analgesic gas is particularly likely to be present during a dental procedure in which such gas is used because the patient’s mouth is necessarily held open during the procedure, thus providing an air passageway other than the nasal passageway by means of which the patient can exhale. Accordingly, the device/method of the invention captures that orally released gas by placing the suction inlet proximate the patient’s mouth. The independent claims have been amended to sharpen this primary focus of the invention on such oral release of gas.

The mask arrangement of Brown, in contrast, is not able to capture gas released from the patient’s mouth into the breathing space of a health care provider. Rather, all the Brown arrangement is capable of doing is removing gas exhaled back into the mask. This is true regardless of whether the mask is placed over just the patient’s nose (as illustrated) or over the patient’s nose and mouth (a placement that could not be used in oral procedures). Accordingly,

Brown does not anticipate the claimed invention, and Applicants request that the rejection be withdrawn.

Rejection Under 35 U.S.C. § 103

Method claims 20 and 21 are rejected under 35 U.S.C. § 103(a) based on Brown, the Examiner asserting that “[t]he method steps would have been obvious because they would have resulted from the use of the device of Brown.” Applicants traverse the rejection/request reconsideration for the reasons set forth above.

Allowable Subject Matter

Claims 5-19, 21, 23-25, and 30-44 are objected to as depending from rejected base claims but are otherwise indicated to be directed to allowable subject matter. In view of the foregoing, however, Applicants submit that all claims are in condition for allowance, and timely Notice to that effect is respectfully requested.

The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437, referencing Attorney Docket No.: 8002.002.NPUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner may directly contact the undersigned by phone to further the discussion.

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Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Tracy Druce", written in a cursive style.

Tracy W. Druce, Esq.
Reg. No. 35,493